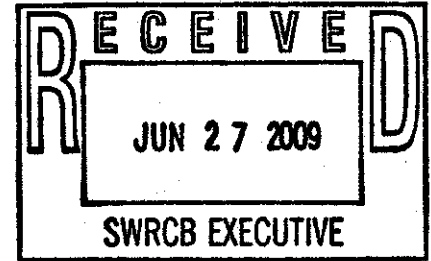




June 26, 2009

The Honorable Charles Hoppin, Chair and Members
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814



VIA ELECTRONIC MAIL: commentletters@waterboards.ca.gov

Re: 7/7/09 Board Meeting Agenda Item #9: Landscape Irrigation Uses of Municipal Recycled Water

Dear Chair Hoppin and Board Members:

On behalf of the California Coastkeeper Alliance (CCKA), which represents 12 Waterkeeper groups statewide, Heal the Bay, and NRDC, we offer the following comments on the latest revised Draft General Waste Discharge Requirements for Landscape Irrigation Uses of Municipal Recycled Water (Permit). We appreciate the changes made in response to our comments dated April 27, 2009, including the correction of 50,000 gallons to 1,000 gallons as the focus of the mandated operations and management plans, as well as the required reporting of priority pollutants. We also incorporate by reference our past comments on the Permit to the extent they remain unaddressed. In particular, we continue to have significant concerns with respect to the 50,000 gallon spill reporting requirement. This extremely high limit is inconsistent with the definition of "incidental" runoff in the Permit as "[u]nintended small amounts (volume) of runoff from recycled water use areas, such as over-spray from sprinklers that escapes the recycled water use area." (Permit, p. A-2 (emphasis added).)

Specifically, page 21 of the Permit states that "the unauthorized discharge of 50,000 gallons or more of 'disinfected tertiary recycled water' shall be reported as provided in Provision C.16." (Emphasis added.) By contrast, the Permit requires on page C-1 the:

[i]mplementation of [an] operations and management plan that provides for detection of leaks, and correction either within 72 hours of learning of a leak, or prior to the release of 1,000 gallons.

(Emphasis added.) This operations and maintenance plan provision is necessary for consistency with the Board's approved May 2009 Recycled Water Policy (Policy), which states that:

[i]ncidental runoff may be regulated by waste discharge requirements or, where necessary, waste discharge requirements that serve as a National Pollutant Discharge Elimination System (NPDES) permit, including municipal separate storm water system

permits, but regardless of the regulatory instrument, the project shall include, but is not limited to, the following practices:

- (1) Implementation of an operations and management plan that may apply to multiple sites and provides for detection of leaks, (for example, from broken sprinkler heads), and correction either within 72 hours of learning of the runoff, **or prior to the release of 1,000 gallons, whichever occurs first...**

(Policy, p. 8 (emphasis added).)

A 50,000 gallon reporting requirement is inherently inconsistent with a mandated operation and management plan that must prevent spills over 1,000 gallons. There is no way to hold the regulated community accountable for compliance with the operations and management plan requirement if the regulated community is only mandated to report spills 50 times bigger than their plans are required to prevent. In fact, a strong disincentive is created to develop an operations and management plan that meets the 1,000 gallon limit if the regulated entity need not make reports of any inadequacies in such plans until spills exceed 50,000 gallons.

As we wrote in our comments to the Board in April 2009:

The General Permit must be consistent with the Recycled Water Policy (RWP, at 8 ("It is the intent of the State Water Board that the general permit for landscape irrigation projects be consistent with the terms of this Policy.")) Fifty thousand gallons is an enormous amount of water—as much as some city water tanks—and in no way is consistent with the intention to permit only "incidental" runoff. Thus, the General Permit must be modified so that the number "50,000" in these two instances is replaced with the number "1,000."

While Water Code Section 13529.2 does discuss *generally* mandated reporting of tertiary treated recycled water discharges for over 50,000 gallons, it is not inconsistent with Section 13529.2 to require more stringent reporting specifically for releases associated with *landscape irrigation*. Section 13529.2 applies broadly to all uses of recycled water. The landscape irrigation Permit provides far more specifically to a certain subset of recycled water uses that have a significantly higher likelihood of human and environmental contact; it therefore calls for more specific attention to careful use.

Subsection 13529.2(e) states that the requirements of that section "supplement, and shall not supplant, any other provisions of law." AB 1481 (De La Torre), the impetus for this Permit, is a more recent provision of law that highlights the special attention that needs to be paid to landscape irrigation uses of recycled water, stating that the general permit must "ensure the **safe, reliable use of recycled water for landscape irrigation** uses consistent with state and federal water quality law." (Emphasis added.) AB 1481 also clearly states that the general permit must provide for the "modification of the terms and conditions of the general permit . . . as necessary to ensure protection of beneficial uses." (Water Code Sec. 13552.5(a)(4).)

Given the potentially intense, local, on-the-ground use of recycled water for landscape irrigation under the Permit, it is entirely consistent with the Policy and the law, as well as public health and the definition of "incidental runoff," to require reporting of releases over 1,000 gallons, not 50,000. We strongly urge that this reporting provision be corrected from 50,000 to 1,000.

Finally, we have some concerns with regard to potential confusion associated with the new language on page 21 that states:

Upon enrollment in this General Permit, if the enrollee is subject to individual waste discharge requirements or water reclamation requirements, the provisions of such requirements are null and void to the extent that the discharge is regulated by this order.

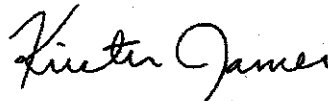
This may create some confusion with regard to the intersection of this provision and the Policy's provisions on "unusual circumstances." Language was added elsewhere in the revised draft Permit to help reference that section of the Policy; such edits should be carried over to this new provision as well, to ensure that it is clear that the "unusual circumstances" section of the Policy must be considered before enrollment in the General Permit. Language referencing that Policy section (e.g., adding the phrase "as applicable in light of the 'unusual circumstances' section of the Recycled Water Policy" after the words "General Permit" above) would help clarify any potential ambiguity in that regard.

Thank you for your attention to these comments.

Sincerely,



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